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RESPONSE UNDER 37 C.F.R. 1.116  
EXPEDITED PROCEDURE  
EXAMINING GROUP 1614

A-20482

PATENTS

#10  
JRP  
9/14/99

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

Alan Patterson et al.

Serial No.: 09/159,680

Filed: September 24, 1998

For: LONG-ACTING OXYTETRACYCLINE COMPOSITION

Group Art Unit: 1614

Examiner: J. Goldberg

**RESPONSE UNDER 37 C.F.R. § 1.116**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the final Office Action mailed on June 14, 1999, the applicants submit

Note  
Not a Hooked → herewith a Supplementary Declaration of Sean Duffy Under 37 C.F.R. § 1.132. (

Claims 1-9 and 11-21 stand rejected under 35 U.S.C. 103 as being unpatentable over Zupan et al. taken with EPO 0038013 and Malook et al. Reconsideration of that rejection is requested in light of the Supplementary Declaration of Dr. Duffy. The Examiner's suggestion to show the percent of the ingredients in Examples A and B is gratefully acknowledged. In accordance with that suggestion, the Supplementary Declaration shows the percentages of the ingredients in Samples A and B. The formulations of Samples A and B are the same as one

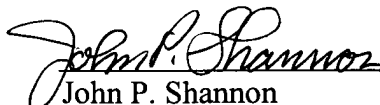
another, the difference being that Sample B was fresh at the time of comparison with Formulations (1) and (2), whereas Sample A was manufactured in 1996. Formulations (1) and (2) attempted to combine the compositions disclosed in Zupan et al. with those disclosed in the EPO reference. The characteristics of Formulations (1) and (2) at the time of manufacture are given in the last two lines on the third page of Dr. Duffy's earlier declaration and on the top portion of the fourth page. The characteristics of Formulations (1) and (2) after five months of storage at room temperature are given on the bottom portion of the fourth page and on the fifth page.

In view of their physical characteristics, Formulations (1) and (2) had no commercial potential. Furthermore, comparison of the effectiveness of Samples A and B according to the present invention with formulations that had commercial potential shows the significantly greater effectiveness of the compositions according to the present invention.

In view of the above, it is believed that the claims are allowable. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Date: 9-2-99

  
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, on the date of signature identified below.

John P. Shannon, Reg. No. 29,276

Signature 

Signature Date 9-2-99